IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 750 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARPANCH, VANDARVAD GRAM PANCHAYAT

Versus

JADAVBHAI DANABHAI

Appearance:

MR NP NANAVATI for the Petitioner.

MS SEJAL K MANDAVIA for Respondent No. 1

GOVERNMENT PLEADER for Respondent Nos. 2-4

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 08/03/2004

ORAL JUDGEMENT

The present CRA is filed by original defendant No.4 of Regular Civil Suit No.389 of 1996, which is pending before the learned Civil Judge (Senior Division), Veraval. In the aforesaid suit, the plaintiff submitted

an application for interim injunction Exhibit 5. The trial court rejected the same. The said order was challenged by the present respondent No.1, who is the original plaintiff of the said suit. The aforesaid appeal was allowed by the appellate court and the order passed by the trial court below Exhibit 41 was set aside by the appellate court. The appellate court allowed the interim injunction application submitted by the plaintiff in the suit and rejected the application submitted by defendant No.4 at Exhibit 41. It is the aforesaid order, which is impugned in this CRA at the instance of original defendant No.4 of the said suit.

It is required to be noted that the present revision is filed against an interlocutory order in the suit and the suit is at large before the trial court. In view of the amendment in Section 115 of the Code of Civil Procedure, this CRA is not maintainable and the same is rejected as not maintainable. It is clarified that this Court has not expressed any opinion on the merits of the issue. If the petitioner so desires, it would be open for the petitioner to challenge the impugned order by filing a Special Civil Applicaiton under Article 227 of the Constitution of India. The CRA is accordingly disposed of as not maintainable. Rule is discharged. No costs. Interim relief granted by this Court earlier is extended upto 25th March, 2004 in case the petitioner is desirous of taking any other proceedings in this behalf.

8th March, 2004 (P.B. Majmudar, J.)

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(apj)